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FIRM STAND TAKEN BY TAFT LANE ELECTION CONTEST THROWN OUT

MAJORITY DECISION GIVES CONTESTANT SLIGHT CHANCE; HARTWELL SAYS THERE IS NONE

"There is no provision that votes cast after five o'clock shall not be received or shall be invalid."—From the opinion of the court.

"The object of the election was to obtain the free and untrammelled expression of the will of the voters. There is no contention that this was not accomplished."—From the opinion of the court.

"A question of the validity of the ballot is not involved in the inspectors' duty, if such be their duty, to close the polls at five o'clock."—Chief Justice Hartwell.

"As I think, the law does not authorize the case to be heard or decided on any of the grounds named in the petition."—Opinion of Chief Justice Hartwell.

"We think that the allegations in the petition concerning the receipt of votes cast after five o'clock are immaterial."—From the opinion of the court.

The Supreme Court gave its decision this morning in the matter of the election contest by John C. Lane, against Mayor Fern. The demurrer to the contestant's petition is sustained. Chief Justice Hartwell dissents in part, but his opinion only adds additional reasons for sustaining the demurrer. Practically, he decides more strongly against the petitioner than the majority of the court, as he would sustain the demurrer on a ground where the others decide that there is a possible chance for a new petition. The opinion of the court intimates that if the petitioner can prove that fifty-two or more ballots were unlawfully exhibited, so that they were not secretly cast, a contest might be sustained. But even as to this remote possibility, the court intimates that it might be necessary to show further that the inspectors knew of the violation of law and made a decision allowing it, so that there might be a decision of the inspectors to appeal from.

The following are extracts from the opinion of the court, by Justice Perry, Justice De Bolt concurring:

"The mere acceptance, therefore, of the ballot and the placing of it in the box, if done with knowledge of the exhibiting, was a decision within the meaning of the law and subject to revision by this court.

"In our opinion, by receiving and also by continuing the ballots cast after five o'clock and the exhibited ballots, if with knowledge, the inspectors decided, favorably to the voters, the 'question' of the possible invalidity of those ballots and those decisions are now 'subject to revision' by this court under sections 56, upon a petition duly filed under section 57.

"Were the ballots cast after five o'clock invalid? * * * There is no provision that votes cast after five o'clock shall not be received or shall be invalid. The object of the elec-

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REHEARING ASKED; NEW CHARGES MADE

Two hours after the election contest was handed down this morning Attorney George A. Davis filed a petition for re-hearing, together with proposed amendments to the petition.

The petition asks that evidence be taken of the irregularities alleged in the petition, other than that sixty-four ballots were cast after 5 p. m. and up to 6:30 p. m. on election-day. It is stated that the decision given by the inspectors of the election that 230 votes were cast for Fern was erroneous, and it is claimed that John C. Lane was elected. Permission is asked to re-argue the question regarding the validity of the ballots cast after 5 p. m. Further, it is stated that more than one hundred ballots were openly and wilfully exhibited by electors and that this and other violations took place and were known to the inspectors of the election.

The motion for re-hearing asks that the matter be heard at two o'clock this afternoon.

Attorney Davis after the decision had been rendered said that the Supreme Court by its decision had said that the Act meant nothing,—that the election could be held anywhere and at any time—in a saloon, on Sunday, Good-Friday or any other day.

Various legal luminaries stated that an amended petition could only be filed if it could be shown that enough ballots had been exhibited wilfully by the voters to change the result of the election.

Mayor Fern was in the vicinity of the Supreme Court shortly after the decision had been given out, and he received congratulations from many of those he met. Harry Murray, who was serving on the jury in Judge Whitney's court, during a recess walked up to the Mayor, and shaking hands with him gravely said: "I'm sorry for you, Joe." The Mayor did not quite catch the drift of the joke at first, for he hastily pointed out that the demurrer had been sustained. The laughter that followed showed him that the joke had been on him.

NEW RICE MILL.

The K. Yamamoto Rice Mill is the largest as well as the finest in the islands. All machinery is of the very latest pattern. The famous Tengu Rice is cleaned at this mill. With the large cleaning capacity they are able to handle considerable out-side particular work which they guarantee.

PLEASED CHRISTMAS SHOPPERS.
Everything is ready for Christmas at Sachs' big store which is thronged with pleased shoppers. The sale of Battenberg Scarfs, Squares and Centers for 95c each that have a value of \$2.50, is being much talked about.

GEORGE A. DAVIS CANDIDATE FOR SUPREME BENCH

George A. Davis, United States Commissioner of the Federal Court here, is a candidate for the Supreme Court bench on the first vacancy that may occur there.

"In case of the retirement of Chief Justice Hartwell," said Mr. Davis this morning, "my friends will present my name before the President and the Attorney General of the United States, as a candidate for any vacancy that may occur on the supreme bench. I arrived at that decision today.

"Out of my practice the past year

my income was equivalent to the salary of an associate justice of the Supreme Court. This year I hope to receive more.

"In the absence of the vice president of the Bar Association (Mr. Thompson), who goes by the Wilhelmia tomorrow, I will be the presiding officer.

"I can't or won't recommend myself, but would like to do so."

Judge Davis was a circuit judge of the first circuit for a while, under the Republic.

JEW YUEN WILL NOT BE EXTRADITED TO-MORROW

The Chinaman, Jew Yuen Mow, who is wanted in San Francisco and whose extradition has caused such a legal tangle here, is not to leave for San Francisco tomorrow. Such was the statement which Attorney Milverton made to Judge Lymer this afternoon in the police court, when moving for a continuance in the action brought by Jew Yuen Mow against Detective Kellett.

Attorney McBride appeared for Jew

Yuen Mow and endeavored to force the hearing of the case, urging as a reason that he feared Jew Yuen Mow would be taken out of the jurisdiction before he could get his testimony.

Judge Lymer was inclined to have Jew Yuen Mow put on the witness stand, but upon the request of Attorney Milverton, backed up by a downright assertion that Jew Yuen Mow would not leave until Wednesday week, he consented to continue the matter over until next Friday.

MOANA ENTERTAINS BUFFALO OFFICERS

The Moana Hotel will entertain tonight with a dance for the officers of the cruiser Buffalo. Friends of the army and navy, guests of other hotels and townfolk are extended a cordial invitation.

PNEUMONIA PREVENTED.

The greatest danger from influenza is of its resulting in pneumonia. This can be obviated by using Chamberlain's Cough Remedy, as it not only cures influenza, but counteracts any tendency of the disease towards pneumonia. For sale by all dealers. Benson, Smith & Co., agents for Hawaii.

GOING AWAY ON THE SHERMAN

The following first class passengers will leave from Honolulu on the Sherman: Lieut. John P. Kelly, M. R. C., Lieut. T. H. Cunningham, 5th Cavalry; Chief Justice A. S. Hartwell, Miss Juliette Hartwell; Chaplain J. F. Houlihan; A. C. Wheeler, Engineer's Office; Miss N. Nyman, and George W. Knight, Trainmaster, Quartermaster's Department.

Altogether ninety-five enlisted men, mostly from the 5th Cavalry, the balance from Fort Shafter and Ruger, will leave on the Sherman.

ODD FELLOWS' ELECTION.

Harmony Lodge, I. O. O. F., last night held an election, resulting in choice of the following officers: J. G. B. Cameron, N. G. E. A. Douthitt, V. G. James Bicknell, Treasurer, Paul Smith, Secretary, C. G. Bartlett, Henry Gehring, E. L. Schwartzburg, trustees.

Fine Job Printing, Star Office.

HIS MESSAGE BOLD DEFIANCE OF THE RADICALS

WASHINGTON, D. C., December 6.—President Taft's message was read in Congress today. The President sprung one surprise in the form of a recommendation that there be no further legislation designed to regulate corporations pending a vigorous prosecution of cases under the present laws.

Taft set forth that he planned an energetic enforcement of the laws now in existence and referred to the pending cases, under the Sherman anti-trust law, against the Standard Oil, tobacco and sugar trusts. He urged that proposals for further anti-railroad and other anti-corporation laws be held in abeyance.

No tariff recommendations were contained in the message, but the President placed himself on record as definitely opposed to a general revision. He said that he would place his views and recommendations before the next Congress, preferring to leave the subject alone at present.

The President strongly urged a ship subsidy, calling attention to the need of subsidy for the upbuilding of the American merchant marine.

The construction of two more battleships was recommended.

Nineteen million dollars was asked for by the President for the fortifying of the Panama canal, the President declaring himself in favor of immediate work upon plans of the most elaborate nature, to make the canal impregnable to attack on both the Atlantic and Pacific sides.

The early completion of the Pearl harbor fortifications and naval station was urged in the message.

The further extension of the rural delivery system under the postal department was urged, also the establishment of a parcels post and the placing of all postmasters under civil service.

The President's advice against a general revision of the tariff places him squarely in opposition to the big Democratic majority in the next Congress and possibly a majority in the Senate. It is also anticipated that there will be much criticism of his recommendation that there be a cessation in the legislation to regulate corporations, as the Democrats and Progressive Republicans have many schemes in view for further "trust-busting."

MOKUAWEOWEO IN ERUPTION?

(Wireless to the Star.)

HILO, December 6.—A great smoke has been seen in the vicinity of Mokuaweoweo, the summit crater of Mauna Loa. It is thought that the

smoke may be the result of an outbreak in the high crater.

You're always next at the Silent Barber Shop. Six chairs in operation.

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